

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Samuel D. Spires, III,

Petitioner,

v.

W.E. Mackelburg, Warden,,

Respondent.

C/A No. 6:22-cv-677-SAL

**OPINION AND ORDER**

*Pro se* petitioner Samuel D. Spires (“Petitioner”) filed this habeas corpus action pursuant to 28 U.S.C. § 2241. This matter is before the court for review of the July 19, 2022 Report and Recommendation of Magistrate Judge Kevin F. McDonald (the “Report”), ECF No. 22, recommending the court grant Respondent’s motion to dismiss as the Petitioner’s claim is moot. Attached to the Report was a notice advising Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. *Id.* at 3. Petitioner has not filed objections, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to

accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 22, and incorporates the Report by reference herein. As a result, Respondent’s motion to dismiss, ECF No. 15, is **GRANTED**.

**IT IS SO ORDERED.**

August 25, 2022  
Columbia, South Carolina

/s/Sherri A. Lydon  
Sherri A. Lydon  
United States District Judge